

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION**

VERA ARNOLD  
ADC #706169

PLAINTIFF

V.

4:05CV00013 JLH/JTR

ARKANSAS DEPARTMENT OF CORRECTION;  
and LARRY NORRIS, Director, ADC

DEFENDANTS

**ORDER**

Plaintiff, who is represented by counsel, has commenced this action alleging that Defendants violated her constitutional rights, as protected by 42 U.S.C. § 1983, and committed the state torts of negligence and medical malpractice while she has been incarcerated at the McPherson Unit of the Arkansas Department of Correction (“ADC”). *See* docket entry #18.

Separate Defendant CMS has previously filed two Motions to Dismiss, to which Plaintiff never responded. *See* docket entries #28 and #52. Those Motions were subsequently granted, and separate Defendant CMS has been dismissed, without prejudice, from this action. *See* docket entries #46 and #58.

On December 6, 2005, the remaining Defendants, ADC and ADC Director Larry Norris, filed a Motion for Judgment on the Pleadings and a supporting brief. *See* docket entries #54 and #55. Plaintiff has not filed a response to that dispositive motion, and the time for doing so has expired.<sup>1</sup>

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<sup>1</sup>The Certificate of Service included with Defendants’ Motion for Judgment on the Pleadings states that Defendants’ attorney electronically sent a copy of the Motion and Supporting Brief to Plaintiff’s attorney on December 7, 2005. Thus, Plaintiff’s Response to Defendant’s Motion was due on or about December 22, 2005. *See* Local Rule 7.2(b) (providing that: “Within eleven days from the date copies of a motion and supporting papers have been served upon him, any party opposing a motion shall serve and file with the Clerk a concise statement in opposition to the motion with supporting authorities”); Fed. R. Civ. P. 6(e) (providing that “3 days shall be added to the prescribed [time] period” when service of a pleading has been completed by mail); Local Rule 5.2

Additionally, Plaintiff has not filed any pleadings in this action (including objections to the Partial Recommended Dispositions recommending dismissal of separate Defendant CMS) since she filed her Amended and Substituted Complaint on June 14, 2005. *See* docket entry #18.

The Court is reluctant to expend any additional judicial resources if Plaintiff is no longer interested in pursuing this case. Accordingly, the Court will give Plaintiff fifteen (15) days to file either: (1) a Statement indicating that she intends to proceed with this case and a Response to the pending Motion for Judgment on the Pleadings; or (2) a Motion for Voluntary Dismissal, without prejudice, pursuant to Fed. R. Civ. P. 41(a)(2). Importantly, Plaintiff is hereby advised that the failure to timely and properly comply with this Order will result in this case being dismissed, with prejudice, due to her failure to prosecute. *See* Fed. R. Civ. P. 41(b) (providing that a case may be dismissed for “failure of the plaintiff to prosecute or to comply with these rules or any order of the court . . .” and that “[u]nless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision . . . operates as an adjudication upon the merits”).

IT IS THEREFORE ORDERED THAT Plaintiff shall, **within fifteen (15) days of the entry of this Order**, file either: (1) a Statement indicating that she intends to proceed with this case and a Response to the pending Motion for Judgment on the Pleadings; or (2) a Motion for Voluntary Dismissal, without prejudice, pursuant to Fed. R. Civ. P. 41(a)(2).

Dated this 5<sup>th</sup> day of January, 2006.

  
UNITED STATES MAGISTRATE JUDGE

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(providing, in pertinent part, that: “Transmission of the Notice of Electronic Filing through the Court’s transmission facilities constitutes service of the filed document upon each party in the case who is registered as a Filing User”).